

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish that her abdominal and low back conditions were causally related to the accepted August 23, 2019 employment incident.

FACTUAL HISTORY

On August 23, 2019 appellant, then a 38-year-old mail postal support employee, filed a traumatic injury claim (Form CA-1) alleging that, on that day, she injured her stomach lifting heavy packages while in the performance of duty. She stopped work on August 23, 2019. D.B., a supervisor, indicated that appellant first indicated that she hurt her stomach and then stated that it was her back. He also indicated that she had told another employee that her stomach hurt when she arrived at work.³

In support of her claim, appellant submitted progress reports, duty status reports (Form CA-17), and reports dated August 23, 24, 26, and 27, 2019 from a physician assistant. On August 27, 2019 Dr. Glenn Meadows, a Board-certified family practitioner, countersigned the physician assistant's August 26, 2019 progress report and an August 27, 2019 Form CA-17 report. The Form CA-17 revealed that on August 23, 2019 appellant was lifting heavy parcels and sacks causing stomach pain. A diagnosis of low back pain was provided.

In a development letter dated September 4, 2019, OWCP informed appellant of the deficiencies regarding her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

Thereafter, OWCP received records from a hospital, which indicated that appellant was admitted on August 23, 2019 and discharged on August 24, 2019. In the August 23, 2019 emergency room report, Dr. Samuel A. Morcom, a Board-certified orthopedic surgeon, reported that she lifted a package that was heavier than normal while at work. Appellant experienced acute onset of moderate-severe diffuse lower abdominal pain, which had increased with time. She denied a history of similar symptoms in the past. Appellant noted a history of abdominal surgeries to include cholecystectomy, abdominoplasty, bypass surgery in 2016, and a hysterectomy. Dr. Morcom provided an assessment of abdominal pain.

An August 24, 2019 computerized tomography scan of appellant's abdomen and pelvis noted no acute abnormality with no definite cause for symptoms identified.

In an August 27, 2019 report, Dr. Meadows indicated that appellant reported her abdomen pain started while handling packages. Appellant was sent to the emergency room and scans of her abdomen and pelvis revealed no abnormality. She reported that currently her pain was in her low back and the right paravertebral area. Dr. Meadows examined appellant, noting that the upper back showed no tenderness, the lower back showed some tenderness on the right paravertebral muscles with no tenderness in the spinous areas or over the lower sacral area. The abdomen was

³ On September 11, 2019 the employing establishment separated appellant from employment.

completely benign with minimal diffuse right abdominal musculature. Dr. Meadows provided an assessment of low back strain and placed appellant on light duty with restrictions.

In a September 12, 2019 Form CA-17, Dr. Hamid Hassanzadeh, a Board-certified orthopedic surgeon, noted that on August 23, 2019 appellant was lifting heavy parcel sacks and felt abdominal pain. He diagnosed rectus sheath tear and opined that she could return to work with restrictions.

OWCP also received September 12, 2019 referrals from certified nurse practitioners for physical therapy for chronic bilateral low back pain with sciatica and referrals to the pain clinic for abdominal pain and muscle tear. A September 12, 2019 lumbar spine x-ray revealed bilateral L5 spondylolysis with spondylolisthesis L5-S1 and that the discogenic disease at L5-S1 had progressed.

By decision dated October 8, 2019, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish that the injury occurred as described. It concluded, therefore, that the requirements had not been met to establish that she sustained an injury as defined by FECA.

On October 12, 2019 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A telephonic hearing was held on February 12, 2020. Appellant described the August 23, 2019 employment incident and her medical care. She denied being in pain before coming into work. Appellant asserted that she was injured on the job.

In a September 12, 2019 report, Dr. Hassanzadeh indicated that appellant was referred by Dr. Meadows and that she presented for an initial visit with a chief complaint of right-sided lower back and right-sided abdomen pain ongoing for two weeks and gradually worsening. He noted that she reported an August 23, 2019 incident while at work lifting and moving a heavy package. Dr. Meadows examined appellant and reviewed her imaging results. He opined that her pain was likely due to rupture or tear of an abdominal muscle and was not primarily of lumbar spine origin. Dr. Hassanzadeh indicated that he would refer appellant to external pain clinic for evaluation and treatment of rectus sheath tear and would also refer to for physical therapy for the lumbar spine. He opined that she could return to work with restrictions.

By decision dated April 28, 2020, the hearing representative affirmed OWCP's October 8, 2019 decision as modified to reflect that the claim was denied on the basis that causal relationship had not been established.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time

⁴ *Id.*

limitation of FECA,⁵ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁶ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁸

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁹ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that her abdominal and low back conditions were causally related to the accepted August 23, 2019 employment incident.

On August 23, 2019 appellant was treated in the emergency room for her claimed abdominal injury. She was evaluated by Dr. Morcom, who noted the history of injury and provided an assessment of abdominal pain. The Board has held that pain is a symptom and not a compensable medical diagnosis.¹¹ A medical report lacking a firm diagnosis is of no probative

⁵ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁸ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

¹⁰ *See C.C.*, Docket No. 20-0950 (issued October 29, 2020); *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹¹ *See C.C.*, Docket No. 19-1071 (issued August 26, 2020); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

value as it does not address whether a diagnosed condition was causally related to the employment incident.¹²

The medical reports from Drs. Meadows and Hassanzadeh noted the history of the August 23, 2019 employment incident. In his August 27, 2019 report, Dr. Meadows noted examination findings and provided an assessment of low back strain. He placed appellant on light duty with restrictions. Dr. Hassanzadeh, in his September 12, 2019 report, opined that her pain was likely due to rupture or tear of an abdominal muscle and was not primarily of lumbar spine origin. He diagnosed a rectus sheath tear and opined that appellant could return to work with restrictions. Dr. Hassanzadeh also referred her to the pain clinic for her abdomen and for physical therapy for her lumbar spine. However, neither physician provided an opinion on causal relationship of the diagnosed conditions.¹³ The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹⁴ These reports are therefore insufficient to establish appellant's claim.

The Board notes that Dr. Meadows countersigned the physician assistant's August 26, 2019 progress report and an August 27, 2019 Form CA-17 report. While these reports noted the history of the August 23, 2019 employment incident, a diagnosis of low back pain was provided. As noted, pain is a symptom and not a compensable medical diagnosis.¹⁵ Thus, these reports are also insufficient to establish appellant's claim.

Appellant submitted several reports signed solely by physician assistants and nurse practitioners. As physician assistants and nurse practitioners are not considered physicians under FECA, their medical findings and opinions are of no probative value and are insufficient to establish entitlement to compensation benefits.¹⁶

Appellant also submitted diagnostic test reports regarding her abdomen and back. The Board has held, however, that diagnostic test reports, standing alone, lack probative value as they

¹² *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

¹³ *Id.*

¹⁴ See *C.C.*, *supra* note 10; *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ See *supra* note 10.

¹⁶ Section 8101(2) provides that, a physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). See also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *M.J.*, Docket No. 19-1287 (issued January 13, 2020); *P.H.*, Docket No. 19-0119 (issued July 5, 2019); *T.K.*, Docket No. 19-0055 (issued May 2, 2019); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as nurses, physician assistants, and physical therapists are not competent to render a medical opinion under FECA). See *W.Z.*, Docket No. 20-0191 (issued July 31, 2020) (a nurse practitioner is not considered a physician under FECA).

do not provide an opinion on whether there is a causal relationship between an employment incident and a diagnosed condition.¹⁷

As there is no medical opinion evidence establishing that appellant's abdominal and low back conditions were causally related to the accepted August 23, 2019 employment incident, the Board finds that she has not met her burden of proof to establish her claim.¹⁸

On appeal appellant asserts that Dr. Hassanzadeh had opined that her diagnosed rectus sheath tear was causally related to the accepted August 23, 2019 employment incident. However, for the reasons discussed above, causal relationship has not been established.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that her abdominal and low back conditions were causally related to the accepted August 23, 2019 employment incident.

¹⁷ See *J.P.*, supra note 12; *M.W.*, Docket No. 19-1667 (issued June 29, 2020).

¹⁸ *C.C.*, supra note 10.

ORDER

IT IS HEREBY ORDERED THAT the April 28, 2020 decision of the Office of Workers' Compensation Program is affirmed.

Issued: April 13, 2021
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board